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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PAUL LING,) Case No. CV 15-02308 DDP (JEMx)
Plaintiff,)
v.) **ORDER REMANDING ACTION TO LOS
DUANE SPENCER LAWSON,) ANGELES COUNTY SUPERIOR COURT**
Defendant.)
_____)

Plaintiff initiated this unlawful detainer action against Defendant on February 3, 2015, in the Los Angeles County Superior Court concerning the property located at 27077 Hidaway Ave., Unit No. 27, Canyon Country, CA 92351. Defendant removed the action to this court on March 37, 2015, alleging federal question subject matter jurisdiction.

Federal courts are courts of limited jurisdiction. Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 374 (1978). Federal district courts have "original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. Alternatively, district courts may

1 exercise diversity jurisdiction when there is complete diversity
 2 between the parties and the amount in controversy exceeds \$75,000.
 3 28 U.S.C. § 1332.

4 "A suit 'arises under' federal law 'only when the plaintiff's
 5 statement of his own cause of action shows that it is based upon
 6 federal law.'" Vaden v. Discover Bank, 556 U.S. 49, 60 (2009).
 7 The well-pleaded complaint rule dictates that "a federal question
 8 must appear on the face of a properly pleaded complaint." Ansley
 9 v. Ameriquest Mortg. Co., 340 F.3d 858, 861 (9th Cir. 2003) (citing
 10 Rivet v. Regions Bank of La., 522 U.S. 470, 475 (1998)). "Federal
 11 law" cannot be predicated on a defense or counterclaim. Vaden, 556
 12 U.S. at 60 (2009). Defenses and counterclaims based on federal law
 13 are, therefore, insufficient to create federal jurisdiction. See
 14 HSBC Bank USA v. Santiago, No. CV 10-04127, 2011 WL 165382, at *1-2
 15 (C.D. Cal. Jan. 18, 2011).

16 As the removing party, Defendant bears the burden of proving
 17 federal jurisdiction. Duncan v. Stuetzle, 76 F.3d 1480, 1485 (9th
 18 Cir. 1996); see also Matheson v. Progressive Specialty Ins. Co.,
 19 319 F.3d 1089, 1090 (9th Cir. 2003). If Defendant fails his
 20 burden, Title 28 U.S.C. § 1447(c) gives a federal court authority
 21 to remand a case to state court for lack of subject matter
 22 jurisdiction.

23 In this case, the sole cause of action in the Complaint is
 24 unlawful detainer to recover possession of real property. "An
 25 unlawful detainer action is a true state law claim." Fed. Nat.
 26 Mortgage Ass'n v. Tinoco, 2012 WL 3279288, at *2 (C.D. Cal. Aug. 9,
 27 2012). Because the sole claim in the Complaint arises under state
 28 law, there is no basis for federal question jurisdiction.

1 Additionally, the Complaint states in the caption that the amount
2 in controversy does not exceed \$10,000, meaning that there is no
3 basis for diversity jurisdiction. (Compl. at 1.)

4 Defendant asserts that a "Federal question exists because
5 Defendant's Demurrer, a pleading depend [sic] on the determination
6 of Defendant's rights and Plaintiff's duties under federal law."
7 (Notice of Removal at 2.) However, even had Defendant asserted a
8 specific federal law as relevant to his defense, defenses based on
9 federal law do not confer federal subject matter jurisdiction.
10 Therefore, Defendant has not met his burden to show that this court
11 may exercise jurisdiction over the instant action.

12 Accordingly, the court REMANDS this action to Los Angeles
13 County Superior Court. In addition, the APPLICATION TO PROCEED IN
14 DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (DOCKET NUMBER 3) is
15 vacated as moot.

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18 IT IS SO ORDERED.

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21 Dated: April 21, 2015

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DEAN D. PREGERSON
United States District Judge